



*TNW*

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October 3, 2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 10/764,016 filed January 23, 2004  
Applicant: FIKSTAD, DAVID ET AL  
Title: "PHARMACEUTICAL COMPOSITIONS WITH SYNCHRONIZED  
SOLUBILIZER RELEASE"  
Group Art Unit: 1614  
Attorney Docket No.: 01235-23625.CON

Sir/Madam:

Transmitted herewith for filing and pursuant to 37 C.F.R. §§ 1.56 and 1.97 is an Information Disclosure Statement. Enclosed also are the following designated documents, as required under 37 C.F.R. §§ 1.97 and 1.98:

- ☒ Form **PTO/SB/08A 7** references submitted for consideration.
- ☐ Legible copies of the listed references or their relevant portions.
- ☒ Legible copies of the listed non-patent documents and foreign documents or their relevant portions are included.
- ☒ Copies of U.S. patents and/or publications are not included pursuant to the Official Gazette Notice, dated Aug. 5, 2003, waiving the requirement of 37 C.F.R. 1.98(a)(2)(i).
- ☐ All English translations of each non-English reference, if any, within the possession, custody, control or availability of anyone designated in 37 C.F.R. § 1.56(c) (see 37 C.F.R. § 1.98(c)).

**www.tnw.com**

8180 South 700 East • Suite 350 • Sandy, Utah 84070-0562 • f. 801.566.6633 • f. 801.566.0750 • [patlaw@tnw.com](mailto:patlaw@tnw.com) | U.S. Mailing Address: P.O. Box 1219 • Sandy, Utah 84091-1219

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The following are included within the Information Disclosure Statement if applicable and as required under 37 C.F.R. § 1.98:

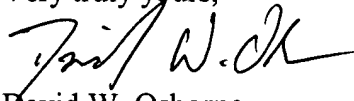
- ☐ Concise explanation of relevance of each reference not in English and unaccompanied by an English translation.
- ☐ Statement that certain listed references not enclosed are substantially cumulative of an enclosed reference.
- ☐ Statement that certain listed references not enclosed were previously cited by or submitted to the Office in prior application no. \_\_\_\_\_, filed on \_\_\_\_\_, which is relied upon for an earlier filing date under 35 U.S.C. § 120.

In order to secure consideration of the items designated above, one or more of the following, if required, is also enclosed:

- ☒ Statement under 37 C.F.R. § 1.97(e)(1) or (2). The RCE was filed 9/20/2006.
- ☐ Check No. \_\_\_\_\_, which includes the amount of \$\_\_\_\_\_ (amount in § 1.17(p)) constituting the submission fee set forth in 37 C.F.R. § 1.17(p).

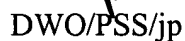
In the event that 37 C.F.R. § 1.97(c) applies and the Examiner is not satisfied that the Statement meets the requirements of 37 C.F.R. § 1.97(e), or in any other event remediable by a fee, please credit any over payment or charge any additional fees to Deposit Account No. 20-0100 of the undersigned.

Very truly yours,



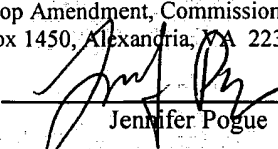
David W. Osborne  
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Registration No. 44,989

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DWO/PSS/jp



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

ART UNIT: 1614	<b><u>CERTIFICATE OF MAILING</u></b> <b><u>UNDER 37 C.F.R. § 1.8</u></b>
EXAMINER: RAYMOND HENLEY III	DATE OF DEPOSIT: <u>October 5, 2006</u>
APPLICANT: FIKSTAD, DAVID ET AL.	I hereby certify that this paper or fee (along with any paper or fee referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
SERIAL NO.: 10/764,016	 Jennifer Pogue
FILED: January 23, 2004	
CONFRM. NO.: 8956	
FOR: "PHARMACEUTICAL COMPOSITIONS WITH SYNCHRONIZED SOLUBILIZER RELEASE"	
DOCKET NO.: 01235-23625.CON	

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form **PTO/SB/08A** which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). Applicant respectfully submits that this Information Disclosure statement is filed pursuant to:

- ☒ 37 C.F.R. § 1.97(b)(1) or (3), within three months of the filing date of the application, or before a first office action on the merits, whichever occurs last, an RCE was file September 20, 2006;
- ☐ 37 C.F.R. § 1.97(c), after a first office action on the merits, but before a Final Office Action or a Notice of Allowance, whichever occurs first, and is accompanied by either 1) a statement in accordance with 37 C.F.R. § 1.97(e), or 2) the fee set forth in 37 C.F.R. § 1.17(p); or

☐ 37 C.F.R. § 1.97(d), after a Final Office Action or Notice of Allowance, whichever occurs first, but on or before payment of the issue fee, and is accompanied by both 1) a statement in accordance with 37 C.F.R. § 1.97(e), and 2) the fee set forth in 37 C.F.R. § 1.17(p).

While no representation is made that any of these references may be “prior art” within the meaning of that term in accordance with 37 C.F.R. §§ 102 or 103, the enclosed list of references is disclosed so as to comply with the duty of disclosure set forth in 37 C.F.R. § 1.56.

Moreover, while no representation is made that a specific search of office files or patent office records has been conducted or that no better art exists, the undersigned attorney of record believes that the references listed, together with any other references which may have been previously submitted or listed, are the closest to the claimed invention (taken in its entirety) of which the undersigned is presently aware, and no art which is closer to the claimed invention (taken in its entirety) has been knowingly withheld.

☐ A legible copy of each listed U.S. Patent or publication (or relevant portion thereof) which was not previously submitted to, or cited by, the Patent Office is enclosed pursuant to 37 C.F.R. §§ 1.97 and 1.98.

☒ A legible copy of each of the listed non-patent literature and foreign documents or their relevant portions is enclosed.

☒ Copies of cited U.S. patents and/or publications are NOT enclosed pursuant to the Official Gazette Notice, dated August 5, 2003, waiving the requirement of 37 C.F.R. § 1.98(a)(2)(i).

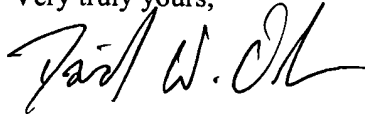
☐ Copies of the references listed in the accompanying Form PTO/SB/08A and PTO/SB/08B are NOT enclosed because, under 37 C.F.R. § 1.98.(d), they were previously cited by or submitted to the Office in application number \_\_\_\_\_, which is relied upon for an earlier filing date under 37 C.F.R. § 1.20.

For all listed references that are not either in the English language, or accompanied by a translation into English, a concise explanation of relevance as required under 37 C.F.R. § 1.98(a)(3) is enclosed attached to each.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or to credit any overpayment to Deposit Account No. 20-0100.


Dated October , 2006.

Very truly yours,



David W. Osborne  
Attorney for Applicant  
Registration No. 44,989

THORPE NORTH & WESTERN, LLP  
Customer No. 20,551  
P.O. Box 1219  
Sandy, Utah 84091-1219  
(801) 566-6633



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Enclosures



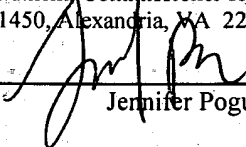
IN THE UNITED STATES PATENT & TRADEMARKS OFFICE

ART UNIT: 1614  
EXAMINER: RAYMOND HENLEY III  
APPLICANT: FIKSTAD, DAVID ET AL.  
SERIAL NO.: 10/764,016  
FILED: 1/23/2004  
CONFRM. NO.: 8956  
FOR: "PHARMACEUTICAL  
COMPOSITIONS WITH  
SYNCHRONIZED SOLUBILIZER  
RELEASE"  
DOCKET NO.: 01235-23625.CON

**CERTIFICATE OF MAILING**  
**UNDER 37 C.F.R. § 1.8**

DATE OF DEPOSIT: October 5 2006

I hereby certify that this paper or fee (along with any paper or fee referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail on the date indicated above and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

  
Jennifer Pogue

**STATEMENT UNDER 37 C.F.R. § 1.97(e)**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

Please find, pursuant to 37 C.F.R. § 1.98(a)(1), the enclosed Form **PTO/SB/08A** which contains a list of all patents, publications, or other items that have come to the attention of one or more of the individuals designated in 37 C.F.R. § 1.56(c). Applicant respectfully submits that this Information Disclosure Statement is filed pursuant to:

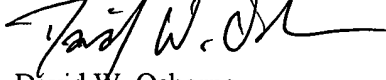
☐ I hereby certify that each item contained in the information disclosure statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or;

☒ I hereby certify that no item contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in '1.56(c) more than three months prior to the filing of the information disclosure statement.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or to credit any overpayment to Deposit Account No. 20-0100.

Dated this 5 day of October, 2006

Respectfully submitted,



David W. Osborne

Attorney for Applicant

Registration No. 44,989


THORPE NORTH & WESTERN, LLP

Customer No. 20,551

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DWO/PSS/jlp  
Enclosure



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/764,016
Filing Date	01/23/2004
First Named Inventor	FIKSTAD, DAVID ET AL
Art Unit	1614
Examiner Name	
Attorney Docket Number	01235-23625.CON

U. S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
		US- 6589562	07-08-2003	Shefer et al.	
		US- 5874418	02-23-1999	Stella et al.	
		US- 6046177	04-04-2000	Stella et al.	
		US- 6692766	02-17-2004	Rubinstein et al.	
		US- 5989583	11-23-1999	Amselem	
		US- 6887493	05-03-2005	Shefer et al.	
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FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)				
		WO9850077	11-12-1998	Cydex, Inc.		

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.